

LAWRENCE G. WASDEN
Attorney General

RICHARD B. BURLEIGH, ISB No. 4032
Deputy Attorney General
State of Idaho
Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, Idaho 83720-0043
Telephone: (208) 334-4219
Facsimile: (208) 334-4298
richard.burleigh@doi.idaho.gov

FILED
SEP 18 2015 *WLB*
Department of Insurance
State of Idaho

Attorneys for the Department of Insurance

BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE

STATE OF IDAHO

In the Matter of:

NATIONAL CONTRACTORS
INSURANCE COMPANY, INC., A RISK
RETENTION GROUP

Idaho Registration No. 3952
NAIC No. 12293

Docket No. 18-3083-15

**ORDER REQUIRING
COMPLIANCE WITH
COURT-ISSUED INJUNCTION
AND WITHDRAWING RISK
RETENTION GROUP
ELIGIBILITY**

The Director of the Idaho Department of Insurance (“Director”), acting pursuant to Idaho Code §§ 41-4811, 41-4812 and 41-213(1), hereby makes following findings and conclusions of law:

FINDINGS

1. NATIONAL CONTRACTORS INSURANCE COMPANY, INC., A RISK RETENTION GROUP (“NATIONAL CONTRACTORS”) is a risk retention group domiciled in the state of Montana and is registered in Idaho to transact casualty insurance, excluding workers’

compensation, under registration number 3952. As such, the Director has jurisdiction over NATIONAL CONTRACTORS.

2. On July 31, 2015, an Order Commencing Liquidation and Appointing Liquidator (“Liquidation Order”) was entered in the First Judicial District Court of Montana, Lewis and Clark County, in Case No. BDV-2015-563, against NATIONAL CONTRACTORS, based on the petition of the Montana Securities and Insurance Commissioner (“Commissioner”) wherein the Commissioner provided the Court with sufficient evidence to support the conclusion that NATIONAL CONTRACTORS is insolvent, and based on NATIONAL CONTRACTORS’ consent to liquidation.

3. The Liquidation Order declared NATIONAL CONTRACTORS to be insolvent in that its admitted assets do not exceed its liabilities plus the greater of any capital and surplus required by law for its organization and directed the Montana Insurance Commissioner to take possession of the assets NATIONAL CONTRACTORS and to administer said assets under the general supervision of the court.

4. The Liquidation Order also provided, at paragraph 17, that NATIONAL CONTRACTORS is “prohibited from transacting any business.”

CONCLUSIONS OF LAW

A. HAZARDOUS FINANCIAL CONDITION OR FINANCIAL IMPAIRMENT

5. Idaho Code § 41-4805(8)(b) prohibits the “solicitation or sale of insurance by, or operation of, a risk retention group that is in a hazardous financial condition or is financially impaired.”

6. The Director concludes that, based on the declarations and conclusions of the Liquidation Order, NATIONAL CONTRACTORS is in a hazardous financial condition and is

financially impaired within the meaning of Idaho Code § 41-4805(8)(b) and, therefore, that the solicitation or sale of insurance by, or the further operation of, NATIONAL CONTRACTORS in Idaho is prohibited by Idaho Code § 41-4805(8)(b).

B. COURT-ISSUED INJUNCTION

7. Idaho Code § 41-4805(11) provides that “[a] risk retention group not chartered in this state and doing business in this state must comply with a lawful order issued in ... a delinquency proceeding commenced by another state’s insurance director if there has been a finding of financial impairment.”

8. The federal Product Liability Risk Retention Act of 1981, as amended, provides, at 15 U.S.C. § 3902(a)(1)(H), that any state may require a risk retention group to “comply with an injunction issued by a court of competent jurisdiction, upon a petition by the state insurance commissioner alleging that the group is in hazardous financial condition or is financially impaired.”

9. The Director concludes that the Liquidation Order constitutes a lawful order issued in a delinquency proceeding commenced by Montana’s Commissioner and an injunction issued by a court of competent jurisdiction, and that, because such order prohibits NATIONAL CONTRACTORS from transacting any business, NATIONAL CONTRACTORS is no longer eligible to transact insurance in Idaho.

ORDER

The Director, having reviewed the foregoing and the requirements of title 41, chapter 48, Idaho Code, and finding good cause therefor,

IT IS HEREBY ORDERED that NATIONAL CONTRACTORS shall comply with the Liquidation Order described herein and shall not transact business in Idaho.

IT IS HEREBY ORDERED that the solicitation or sale of insurance by, or the further operation of, NATIONAL CONTRACTORS in Idaho is prohibited.

IT IS FURTHER ORDERED that that registration of NATIONAL CONTRACTORS as an eligible risk retention group in the state of Idaho is withdrawn.

IT IS FURTHER ORDERED that the preceding shall become a Final Order effective twenty-one (21) days from the date of service of this order unless a hearing is requested as more particularly set forth below under the Notification of Rights.

IT IS SO ORDERED.

DATED this 15 day of September, 2015.

STATE OF IDAHO
DEPARTMENT OF INSURANCE


DEAN L. CAMERON
Director

NOTIFICATION OF RIGHTS

This order of the Director shall be final and effective twenty-one (21) days from the date of service of the order unless a request for hearing is received by the Director as permitted herein. In accordance with Idaho Code § 41-232A and IDAPA 04.11.01 *et seq.*, you are hereby notified of the right to request a hearing before the Director of the Department of Insurance. Any such hearing request must be made in writing and be filed and served upon the Director within twenty-one (21) days after service of this order. Failure to file and serve a written request for a hearing upon the Director within the twenty-one (21) day time period shall be deemed a waiver of the opportunity for a hearing.

Any written request for a hearing shall be served on the Director of the Idaho Department of Insurance, addressed as follows:

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043

A copy shall also be provided to the Department's counsel in this matter at the following address:

Richard B. Burleigh
Deputy Attorney General
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043

Pursuant to Idaho Code §§ 67-5270 and 67-5272, any party aggrieved by this final order may appeal it by filing a petition for judicial review in the district court of the county in which: (1) the hearing was held; or (2) the final agency action was taken; or (3) the aggrieved party resides or operates its principal place of business in Idaho; or (4) the real property or personal property that was the subject of the agency decision is located. An appeal must be filed within twenty-eight (28) days of: (a) the effective date of this final order; or (b) an order denying a petition for reconsideration; or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. *See*, Idaho Code § 67-5273. The filing of a petition for judicial review does not itself stay the effectiveness or enforcement of the order under appeal.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18 day of September, 2015, I caused a true and correct copy of the foregoing ORDER REQUIRING COMPLIANCE WITH COURT-ISSUED INJUNCTION AND WITHDRAWING RISK RETENTION GROUP ELIGIBILITY to be served upon the following by the designated means:

National Contractors Insurance Company, Inc.
A Risk Retention Group
27 Gage Terrace
Bigfork, MT 59911

- ☒ first class mail
- ☐ certified mail
- ☐ hand delivery
- ☐ via facsimile
- ☐ via email

Monica J. Lindeen
Commissioner of Securities and Insurance
840 Helena Avenue
Helena, MT 59601

- ☒ first class mail
- ☐ certified mail
- ☐ hand delivery
- ☐ via facsimile
- ☐ via email

Richard B. Burleigh
Deputy Attorney General
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043

- ☐ first class mail
- ☐ certified mail
- ☒ hand delivery
- ☐ via facsimile
- ☐ via email



Kelly Grady